

CIVIL SERVICE COMMISSION MINUTES

February 16, 2000

A regular meeting of the Civil Service Commission was held at 2:30 p.m., in Room 310 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Sigrid Pate
Mary Gwen Brummitt
Roy Dixon
Gordon Austin

Comprising a quorum of the Commission

Absent was:

Gloria Valencia-Cothran

Support Staff Present:

Larry Cook, Executive Officer
Ralph Shadwell, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

CIVIL SERVICE COMMISSION MINUTES
February 16, 2000

NO CLOSED SESSION

2:30 p.m. OPEN SESSION: Room 310, 1600 Pacific Highway, San Diego,
California 92101

PRE-AGENDA CONFERENCE

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
4, 5, 6, 7, 8A	7		

COMMENTS Motion by Austin to approve all items not held for
discussion; seconded by Dixon. Carried.

REGULAR AGENDA
County Administration Center, Room 358

NOTE: Five total minutes will be allocated for input on Agenda Items
unless additional time is requested at the outset and it is approved by the
President of the Commission.

MINUTES

1. Approval of the Minutes of the regular meeting of February 2, 2000.

Approved.

CONFIRMATION OF ASSIGNMENTS

2. Commissioner Pate: **Maurice A. Lawrence**, Stock Clerk, Health and Human
Services Agency, appealing an Order of Suspension from the Health and Human
Services Agency.

Confirmed.

3. Commissioner Valencia-Cothran: Richard H. Castle, Jr., Esq. on behalf
of **Sylvia Peralta**, Deputy Clerk III, Superior Court, appealing an Order of
Removal from the Superior Court.

Confirmed.

DISCIPLINES

Court Order

4. Superior Court (Case No. GIC 740320) - In response to litigation brought by Dennis Hayes, Esq., on behalf of **Alisa Brady**, former Alternate Public Defender I in the Department of the Alternate Public Defender.

RECOMMENDATION: Assign a hearing officer to conduct a pre-hearing conference.

Dennis Hayes, Esq. on behalf of Alisa Brady and the Public Defender's Association contended that Ms. Brady successfully passed the 12 month probationary period as an entry level attorney and performed the duties of Deputy Alternate Public Defender. Appellant alleges that the County re-titled the classification, thereby "re-starting" the probationary period. Mr. Hayes explained that there are documents in Ms. Brady's file that state Appellant did pass the probationary period and was promoted. Mr. Hayes, on behalf of Appellant deems Ms. Brady to be a permanent employee of the County of San Diego, and in that vein, requested a Rule XI investigation into this matter.

William Songer, Deputy County Counsel, on behalf of the Alternate Public Defender explained that the Union had filed a Writ of Mandamus against the County, and the Court remanded this matter back to the Civil Service Commission for proper administrative remedy. Mr. Songer stated that Appellant had taken a promotion to another level, thereby failing to complete the probationary period at the entry level attorney position. Mr. Songer explained that Civil Service Rules cannot be bypassed and a probationary period cannot be fragmented among two or more different classifications.

Motion by Dixon to accept staff recommendation; seconded by Austin. Carried. Commissioner Austin assigned.

The Executive Officer stated that the hearing officer would decide the parameters of the (Rule VII) pre-hearing conference

DISCRIMINATION

Findings

5. Commissioner Pate: **Pamela LaRiviere**, Library Substitute, County Library, alleging gender discrimination by the County Library.

FINDINGS AND RECOMMENDATIONS:

At the regular meeting of the Civil Service Commission on December 15, 1999, the Commission appointed Sigrid Pate to investigate the complaint submitted by Complainant. The complaint was referred to the Office of Internal Affairs for investigation and report back. The report of OIA was received and reviewed by the Investigating Officer,

who concurs with the findings that complainant failed to establish allegations of discrimination, and probable cause that a violation of discrimination laws occurred. It is therefore recommended that: (1) Pamela LaRiviere's complaint be denied, and (2) the Commission approve and file this report with a findings of no probable cause that Complainant has been discriminated against on any basis protected by law.

Motion by Pate to approve Findings and Recommendations; seconded by Austin. Carried.

SELECTION PROCESS

Complaints

6. Douglas Olins, Esq. and Barrett J. Foerster, Esq., on behalf of **Karen Hirr, Esq., Alfred LeSane, Esq. and Dianne Wendt-Miller, Esq.** requesting a Rule X hearing regarding their non-selection for the classification of Deputy Public Defender III in the Department of the Public Defender.

RECOMMENDATION: Deny Request (Continued from Civil Service meetings of December 15, 1999 and January 19, 2000.)

Barrett J. Foerster, Esq. spoke on behalf of Appellants. He addressed the Commission regarding his conversation with Larry Cook, Executive Officer, wherein Mr. Cook stated that the Appellants may have been qualified; and the selection process for Deputy Public Defender III may have been imperfect. Mr. Foerster, on behalf of Appellants alleged that the process was flawed, noting several inconsistencies.

Henry Coker, Chief Deputy for branch offices in the Public Defender's Office addressed the Commission, outlining promotional qualifying issues, and made it very clear that the interview portion of the selection process was the critical factor in the promotion of 31 out of 41 applicants. Mr. Coker pointed out several alleged inconsistencies in Appellants' declarations.

Larry Cook, asked Mr. Coker how the writing samples were rated. Mr. Coker responded that writing samples and supervisor input were weighed, however, the interview was the critical factor in promoting individuals. Commissioner Pate questioned whether applicants were made aware in advance of the questions that were to be asked by the interview panel. Mr. Coker explained that the Department did its best in leading the Applicants to the most appropriate answers. Mr. Cook pointed out that perhaps the Department should have been more clear about the different facets of the interview process, including the weight of each facet.

Calling for the question, the Commission deemed a Rule X hearing be granted.

Motion by Austin to assign a hearing officer to conduct a Rule X hearing; seconded by Dixon. Carried. Brummitt No. Commissioner Brummitt assigned.

7. Dung Tran, S.E.I.U. Local 2028, on behalf of **Valerie Pickett** requesting a Rule X hearing regarding her not being appointed to the classification of Eligibility Technician in the Health and Human Services Agency.

RECOMMENDATION: Deny Request

Dung Tran, S.E.I.U. Local 2028, on behalf of Employee stated that there were two issues he wished to address. (1) Employee was denied promotion after having been appointed. (The chain of events is as follows: incident occurred, Employee promoted, investigation into incident, denial of promotion, reprimand, Employee contesting reprimand). Mr. Tran alleged Employee has been "punished" twice for the incident currently under investigation. (2) Mr. Tran requested past case law wherein the Commission has previously ruled on this type of matter, as stated in the Staff Report.

Lynnette Mercado on behalf of the Department denied the "double penalty" alleged by Ms. Pickett. She stated that if the incident had been made known, the promotion would not have been offered to Employee. Department personnel had not disclosed the incident/ investigation to Department staff in charge of the promotion process. Ms. Mercado did inform the Commission that the Job Announcement specified that ET candidates are subject to a thorough background investigation.

Larry Cook maintained his recommendation to deny a hearing due to previous opinions from County Counsel wherein an appointment is not final until the day an appointee begins that job.

It was agreed upon by all parties to continue this matter allowing S.E.I.U. to produce case law.

Motion by Dixon to continue this matter to the next Civil Service Commission meeting; seconded by Brummitt. Carried.

OTHER MATTERS

8. Extension of Temporary Appointments

Housing and Community Development

A. 3 Housing Specialist I's (Nohemi Pastrana, Janette Grutzmacher, Patrick Tabor)

Health and Human Services Agency

B. 1 Residential Care Worker Trainee (Bernadette Brown)

C. 1 Residential Care Worker II (Carolina Ramos)

Item No. 8 ratified.

9. Public Input.

Dung Tran expressed concern regarding the utilization of certain certified temporary appointments by the Department of Housing and Community Development. The Executive Officer took the concern under submission, assuring Mr. Tran that staff would look into this matter and respond to his concerns.

ADJOURNMENT: 3:30 p.m.

NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE MARCH 15, 2000.